

Exhibit E

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Via Email

Kevin Jonke
Kirkland & Ellis LLP
300 North LaSalle
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Re: Dealer Depositions in *In re DMS Antitrust Litigation*, No. 18-864 (N.D. Ill.)

Kevin,

I write on behalf of AutoLoop and the putative Vendor Class. CDK has noticed 17 Rule 30(b)(6) depositions of dealer class representatives for the month of December. Consistent with the parameters of class discovery, we believe these depositions can occur solely for purposes of class certification with respect to the putative Dealer Class action and cannot be used for any purpose in the AutoLoop and putative Vendor Class action. We are writing to confirm that CDK has the same understanding.

As CDK has recognized, fact discovery closed on April 30, 2019. *See* CDK Global, LLC's Responses & Objections To Dealership Class Plaintiffs' First Set of Class Certification Requests for the Production of Documents at 2. No further discovery may be taken without either leave from the Court or agreement of the parties. *See* Fed. R. Civ. P. 29; *Hagins v. Madden*, 1995 WL 263446, at *6 (N.D. Ill. May 2, 1995) (quashing deposition subpoenas served after close of discovery without leave of court). AutoLoop agreed to certain document discovery for purposes of class certification, but it did not agree to the currently noticed dealer class representative depositions – only the dealers consented to them. *See* K. Jonke Email To J. Hughes et al. (Sept. 27, 2023 at 5:04 p.m.) (under "Dealers" section of agreement: "Dealers will make a representative of any such newly added Dealer Class Representative available for deposition in advance of CDK's class opposition deadline.").

Further, the purpose of the dealer class representative depositions is to adduce evidence relating to certification of the Dealer Class. *See* Dkt. 1413, at 2 ("[T]he parties have each requested additional discovery on issues related to class certification."). Those issues are irrelevant to the AutoLoop action and the pending motion for certification of the Vendor Class. It would be prejudicial, burdensome, and unfair for CDK to use these 17 depositions to obtain additional one-sided merits discovery that could be used in the AutoLoop action, and for AutoLoop to need to actively participate in these depositions.

We request that CDK confirm our understanding that the noticed depositions of Dealer Class representatives will not be taken in the *AutoLoop* action and cannot be used for any purpose in that action. Given the impending depositions – and our desire not to complicate the scheduling of those depositions – please provide CDK’s position by close of business Monday, December 4 so that we may seek relief from the Court if necessary. Finally, while we do not intend to question the deponents, we reserve our right to attend and obtain transcripts of the depositions if necessary, for example, to protect confidential information of our clients.

Best regards,

/s/ Daniel V. Dorris

Daniel V. Dorris

cc: MDL Counsel Email List